

## **Working Party on State Trading**

### **Status**

Article XVII of the GATT 1994 requires governments to place certain restrictions on the behavior of their trading firms and on private firms to which they accord special or exclusive privileges to engage in importation and exportation. Among other things, Article XVII requires governments to ensure that these “state trading enterprises” act in a manner consistent with the general principle of non-discriminatory treatment, e.g., to make purchases or sales solely in accordance with commercial considerations, and to abide by other GATT disciplines. To address the ambiguity regarding which types of firms fall within the scope of “state trading enterprises,” agreement was reached in the Uruguay Round on “The Understanding on the Interpretation of Article XVII.” It provides a working definition and instructs Members to notify all firms in its territory that fall within the agreed definition, whether or not such enterprises have imported or exported goods.

A WTO Working Party was established to review the notifications and their adequacy and to develop an illustrative list of relationships between governments and state trading enterprises, and the kinds of activities engaged in by these enterprises. All Members are required under Article XVII of GATT 1994 and paragraph 1 of the Understanding to submit annually notifications of their state trading activities.

### **Assessment of the First Five Years of Operation**

The Uruguay Round ensured, for the first time, that the operation of agricultural state trading entities would be subject to international scrutiny and disciplines. Agricultural products were effectively outside the disciplines of GATT 1947, thereby limiting the scrutiny of state trading entities since many state trading entities direct trade in agricultural products. For example, the lack of tariff bindings on most agricultural products in most countries also limited the scope of GATT 1947 disciplines that could be brought to bear on state trading entities (e.g., importing state trading entities could capriciously adjust the import duty and/or domestic mark-up on imported products.)

The WTO Agreement on Agriculture marked an important step in bringing the activities of agricultural state trading entities under the same disciplines that apply to industrial products. All agricultural tariffs (including tariff-rate quotas) are now bound. While further work is needed on the administration of tariff-rate quotas, bindings do act to limit the scope of state traders to manipulate the tariff import system. Likewise, the disciplines on export competition, including value and quantity ceilings on export subsidies, apply fully to state trading entities. U.S. agricultural producers and exporters have expressed concerns about the operation of certain state trading entities, particularly single-desk importers or exporters of agricultural products.

The “working definition” of state trading entities in the Uruguay Round along with the establishment of a Working Party on State Trading also significantly increased the scrutiny of these entities in the WTO compared to GATT 1947. New and full notifications were first required in 1995 and subsequently every third year thereafter, while in the intervening years an updating notification is to be made indicating any changes since the full notification. While notification requirements for state trading entities existed after 1960 in GATT 1947, no body was established specifically to review the notifications, in part due to the situation on agriculture. Little, if any, attention was given in the Council to compliance with the notification requirement or the content of the notifications, and differences existed among countries as to what type of entities actually fell under Article XVII obligations.

Under the WTO, 58 Members provided new and full notifications of state trading enterprises for 1995 and 32 Members for 1998 (the European Communities submits a single notification covering all 15 Member States). More than 30 Members submitted updating notifications for 1996 and 1997, and 13 Members for 1999. The Working Party on average met four times a year since 1995 to review these notifications, including the formal submission of questions and answers on the operation of specific entities reported in the notifications. This improved scrutiny and transparency also set the stage for in-depth examination of certain activities of agricultural state trading entities in the Agricultural Information and Exchange exercise under the auspices of the WTO Committee on Agriculture that laid the groundwork for issues to be addressed in the mandated negotiations on agriculture.

The Working Party also completed two other tasks mandated in the Uruguay Round “Understanding on the Interpretation of Article XVII”: review of the 1960 notification questionnaire and development of the illustrative list. Prior to September 1998, submissions followed a notification format developed in 1960. A review of the notifications tabled since 1995 revealed a need for more extensive work on updating the 1960 questionnaire. The United States worked to broaden the notification requirements. In April 1998, the Working Party approved an improved notification format that requires more extensive qualitative and quantitative information than the 1960 version. The new format provides more transparent information about the operation of state trading entities than the 1960 version.

The Working Party also agreed to continue its work, consistent with its mandate, including the examination of what further information might be appropriate to notify to enhance transparency of state trading entities. In July 1998, the Council for Trade in Goods adopted the revised notification format which is now the basis for all new and full notifications submitted in the future. As noted previously, in 1999, the Working Party completed its work on an illustrative list of relationships between governments and state trading enterprises and the kinds of activities engaged in by these enterprises. The illustrative list will assist Members in preparing notifications by providing examples of the types of activities and entities that were notified in the past. As a result of the Working Party, agriculture negotiators will benefit from the improved transparency and understanding of activities and measures utilized by agricultural state trading entities.

### **Major Issues in 1999**

The Working Party held three formal meetings in 1999 to review the notifications and to continue work on the illustrative list. As of December 31, 1999, 32 Members provided new and full notifications for 1998, and 13 Members submitted updating notifications for 1999. During the year, the Working Party reviewed 26 of these notifications.

During 1999, the Working Party finished its work on the illustrative list. The illustrative list is not intended to refine or redefine the definition of state trading enterprise. Rather, it reflects many of the relationships and entities which had previously been included in notifications and, as such, may be useful in helping Members prepare their notifications. The illustrative list was approved by the Working Party in July and by the Council for Trade in Goods in October.

### **Work for 2000**

The three areas of discipline in the WTO Agreement on Agriculture – market access, export competition and domestic support – provide the basis on which to pursue further reform in the mandated negotiations on agriculture. In the Agricultural and Information Exchange exercise, several countries identified issues to be addressed in the negotiations related directly to measures used by state trading entities, such as in tariff-rate quota administration or export competition. The Working Party will contribute to the ongoing discussion of these and other state trading issues, including through its review of new notifications and its examination of what further information might be appropriate to notify to enhance transparency of state trading entities.

